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C O N F I D E N T I A L SECTION 01 OF 03 ANKARA 000526

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SUBJECT: TURKEY: AKP CLOSURE CASE UPDATE (3/19)

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Classified By: Political Counselor Janice G. Weiner, for Reasons 1.4 (b ,d)

¶1. (C) Summary and Comment: As everyone awaits the Constitutional Court rapporteur's opinion on whether the closure case against the ruling Justice and Development Party (AKP) is technically complete, some are urging AKP to press forward with reforms of the judiciary, the political parties law, and the Constitution. Others warn such efforts could themselves run afoul of the Constitution. Some observers claim the case aims to send the Turkish economy -- AKP's anchor -- into a tailspin, while others argue the true goal is to split AKP from within. Unapologetic establishment elites are satisfied that defending the Republic as they understand it justifies the current methods. End Summary and Comment.

AKP Plans to Re-Structure Party Closure Rules

¶2. (U) At a ceremony in Canakkale to commemorate fallen soldiers, PM Erdogan said he is aware there are plots to bring down the AKP. He reiterated the party would continue moving forward with its agenda of bringing democratic freedoms to Turkey. Meanwhile, his deputies are working on a package to amend the Constitution and Political Parties Law. AKP's parliamentary deputy chairman Nihat Ergun said Erdogan has decided to change the laws within the next 10 days to disable the prosecutor's authority to file for the disbandment of political parties. "We can't simply sit down and watch the blazes burn the economy," he stated. AKP officials are continuing to study European political party closure laws.

¶3. (C) The Constitution itself precludes any parliamentary actions aimed at saving the AKP. Article 138 prohibits legislative questions, debate, or statements concerning the exercise of judicial power related to an existing case. Nevertheless, Deputy Prime Minister Cemil Cicek is reportedly preparing a mini-constitutional package that would amend articles 68, 69, and 149 (related to restrictions on political parties, the dissolution of political parties, and the functioning of the Constitutional Court) to make it extremely difficult to launch subsequent closure cases and remove such authority from the hands of the chief prosecutor.

MHP Leader Says AKP Playing with Fire

¶4. (C) In his March 18 speech to his parliamentary group, Nationalist Action Party (MHP) leader Devlet Bahçeli accused Erdogan of using the present situation to play the victim and act as a "hero of democracy." Bahçeli, reversing his conciliatory weekend stance, argued that AKP's alleged plans to increase the number of judges on the Constitutional Court and rein in the Court's authority "cannot be considered legitimate." AKP's efforts to grasp all institutions had brought the country to its present tense state, according to Bahçeli. "AKP should give up their dangerous game and await the judicial process with respect."

CHP: Prosecutor's Motive to Protect Secularism

¶5. (U) Republican People's Party (CHP) leader Deniz Baykal, speaking at his March 18 parliamentary group meeting, expressed regret over the closure case, noting that CHP was disbanded in 1980 after the military coup. Following AKP's success in the 2002 general elections, he said he had urged Erdogan to be mindful of what had happened to AKP's predecessors, and warned him "not to distort the fundamental principles of the Constitution." Baykal emphasized that the Constitution bars parties from using religion as a political tool and added, "The motive behind this confrontation is the protection of secularism." He urged AKP not to try to amend the Constitution to escape closure.

Opposition Calls AKP's Stance Insincere

¶6. (U) Baykal also accused AKP of a double standard on party

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closures, claiming the party had praised the chief prosecutor for demanding the closure of the pro-Kurdish Democratic Society Party (DTP). Quoting GOT spokesman Cemil Cicek's public warnings to DTP members to control themselves in order to diffuse tension in the country, Baykal asked why AKP did not follow its own advice. DTP parliamentary group leader Ahmet Turk stated AKP had shown it was a "selectively democratic" party, by supporting the effort to close DTP while criticizing the case against AKP. Turk went on to call the ban "an anti-democratic manifestation of elitist Republicanism." He stated that this interventionist mentality would not prevail over Turkish democracy.

¶7. (C) Democratic Left Party's (DSP) Ahmet Tan told us he agreed AKP's statements were insincere because AKP had said nothing against the DTP closure case and because AKP's draft Constitution foresees party closures. (Note: Erdogan did, in fact, label the closure case against DTP as undemocratic, while simultaneously wishing the party would condemn the terrorist PKK. End note.) Tan sees the Chief Prosecutor as simply carrying out his duties under the Constitution.

Citizens' Complaints Against Chief Prosecutor

¶8. (U) Kayseri attorney Sabri Erdogan (no relation to the PM), filed an official complaint on March 18 against Supreme Court of Appeals Chief Prosecutor Abdurrahman Yalcinkaya, for preparing a wrongful indictment to close AKP. Erdogan said he did it as his duty as an ordinary citizen. The complaint alleges Yalcinkaya's indictment cites numerous false news reports, since debunked. The NGO Young Civilians also filed charges against the prosecutor on March 18 for "abusing his position," and for presenting weak evidence and forced interpretations in his statement of facts. Several professors agreed that Yalcinkaya should be tried for overstepping the boundaries of the law in his indictment, including, for example, naming the Turkish President, who may only be prosecuted on charges of treason.

¶9. (U) Citizens launched an Internet initiative on March 17 to protest the closure case. On a newly-established website

called, "Shut me down as well!", 34,700 people added their names to a petition that reads: "To whom it may concern: I believe that me shutting down, in my opinion, will be a most beneficial deed for my country, state and the rest of humanity. Please, shut me down as well." The site can be viewed at <http://benidekapatin.com>.

Turkish Markets Tracking Global Markets

¶10. (U) Turkish financial markets continue to track global markets. Moody's Investor Services said Tuesday that the closure case made a sovereign bond ratings upgrade for Turkey less likely in the near term, because it raised political uncertainty. Similarly, the chairman of the YASED foreign investors association, Tahir Uysal, said that if the closure case resulted in a lengthy legal process and was seen to undermine political stability, it would deter foreign investors from investing in Turkey.

Media Commentary

¶11. (U) In a vacuum of new developments, much media commentary focuses on "what ifs". Emre Akoz of "Sabah" sees the court case as the latest in a series of events aimed at bringing down the government, starting with the Trabzon, Dink, and Malatya murders, and continuing through the April 27, 2007 e-coup and the July 2007 election. "Radikal's" Murat Yetkin says the government should present any information allegedly linking the Ergenekon crackdown and the current case to the judiciary. Since the closure case would take a relatively long time, he argues that the GOT could shed light on gang relations in that time.

¶12. (U) Others worry about possible effects on Turkey's political and economic stability. Cengiz Candar in "Referans" writes that those "disguised as jurists" opened the closure case after markets closed on Friday in the hopes of evading accusations that they stabbed the economy and living conditions in the back. But in reality, he alleges,

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the jurists' plan is to trigger an economic crisis and thus bring about the end of the government. He urges Erdogan to wake up, stop seeking an alliance with the status quo forces, firmly embrace EU reforms and introduce a genuinely civilian constitution.

¶13. (U) Looking to which other Turkish laws need an overhaul, Erdal Safak of "Sabah" quotes former Court of Appeals president Sami Selcuk as saying the political parties law, with its numerous bans, should be buried or at least substantially amended. Ergun Babahan of "Sabah" also quotes Selcuk as saying, "It is not the Chief Prosecutor but the written laws that makes us feel ashamed."

¶14. (U) Some are starting to speculate about the post-Erdogan era. Sebahattin Onkibar in "Yeni Safak" suggests after Erdogan, FM Ali Babacan would be the caretaker for the group. Former Deputy PM Abdullatif Sener could establish a party to draw off some of the former AKP MPs; he mentions parliament speaker Koksak Toptan and Turkish Union of Chambers and Commodity Exchanges (TOBB) president Rifat Hisarciklioglu as well.

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